IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 19603 of 2007(H)

AGAINST THE ORDER IN EP 276/2001 IN OS.170/1996 of ADL.SUB COURT, THALASSERY
.....

PETITIONER:

SANTHOSH,
CHATTA DAYAROTH PADMANABHAN, NO OCCUPATION,
RESIDING AT CHATTA HOUSE, PALLIKUNNU AMSOM DESOM,
P.O.PALLIKUNNU, KANNUR TALUK.

BY ADV. SRI.V.P.MOHAMMED NIYAZ

RESPONDENTS:
----

1. **C.D.LAKSHMANAN, S/O. MADHAVI,**
   BUSINESS, RESIDING BEHIND KURUMATHUR PANCHAYATH
   OFFICE, KURUMATHUR AMSOM, CHERKALA DESOM,
   TALIPARAMBA TALUK, KANNUR DISTRICT.

2. **NALAM VEETTIL DAYAROTH KAMALAKSHI,**
   D/O. MADHAVI, NO OCCUPATION, RESIDING AT
   "GOPIKAPURI", PALLIKUNNU AMSOM DESOM,
   KANNUR TALUK AND DISTRICT.

3. **NALAM VEETTIL DAYAROTH KRISHNAMMA,**
   D/O. MADHAVI, NO OCCUPATION, RESIDING AT
   NO.8, SATHYAMOORTHY ROAD, CHETPET, MADRAS-31.

4. **P.C.PREMNATH, S/O. NALAMVEETTIL,**
   DAYAROTH RADHA, P.B.NO.4146, SHARJAH, U.A.E.

5. **CHATTA DAYAROTH YESHODA, D/O. ARIKOTHAN**
   MADHAVI, NO OCCUPATION, RESIDING AT "RAGHUPATHY",
   P.O.KOYYOD, CHEMBILODE AMSOM, KOYYOD DESOM,
   KANNUR TALUK AND DISTRICT.

6. C.D.RAVINDRAN, S/O. MADHAVI,
BUSINESS, RESIDING AT AKKARAKUNNATH HOUSE,
NEAR KONAR VAYAL, THALASSERY AMSOM DESOM,
THALASSERY TALUK, KANNUR DISTRICT.

7. C.V.LEELAVATHI, W/O. CHATTA DAYAROTH
PADMANABHAN, NO OCCUPATION, RESIDING AT CHATTA
HOUSE, PALLIKUNNU AMSOM DESOM, P.O.PALLIKUNNU,
KANNUR TALUK AND DISTRICT.

8. SANGEETH, S/O. CHATTA DAYAROTH
PADMANABHAN, BUSINESS, RESIDING AT CHATTA HOUSE,
PALLIKUNNU AMSOM DESOM, P.O.PALLIKUNNU,
KANNUR TALUK AND DISTRICT.

9. SAMPREETH, S/O. CHATTA DAYAROTH
PADMANABHAN, BUSINESS, RESIDING AT CHATTA HOUSE,
PALLIKUNNU AMSOM DESOM, P.O.PALLIKUNNU,
KANNUR TALUK AND DISTRICT.

10. SAGAR, S/O. CHATTA DAYAROTH PADMANABHAN,
BUSINESS, RESIDING AT CHATTA HOUSE,
PALLIKUNNU AMSOM DESOM, P.O.PALLIKUNNU,
KANNUR TALUK AND DISTRICT.

11. SAJAN, S/O. CHATTA DAYAROTH PADMANABHAN,
BUSINESS, RESIDING AT CHATTA HOUSE,
PALLIKUNNU AMSOM DESOM, P.O.PALLIKUNNU,
KANNUR TALUK AND DISTRICT.

12. SANDEEP, S/O. CHATTA DAYAROTH
PADMANABHAN, NO OCCUPATION, RESIDING AT CHATTA
HOUSE, PALLIKUNNU AMSOM DESOM, P.O.PALLIKUNNU,
KANNUR TALUK AND DISTRICT.

13. SANIL, S/O. CHATTA DAYAROTH
PADMANABHAN, NO OCCUPATION, RESIDING AT
CHATTA HOUSE, PALLIKUNNU AMSOM AND DESOM,
P.O.PALLIKUNNU, KANNUR TALUK AND DISTRICT.

14. SARATH, S/O. CHATTA DAYAROTH
PADMANABHAN, NO OCCUPATION, RESIDING AT
CHATTA HOUSE, PALLIKUNNU AMSOM DESOM,
P.O.PALLIKUNNU, KANNUR TALUK AND DISTRICT.

15. SEEMA, D/O. CHATTA DAYAROTH PADMANABHAN,
NO OCCUPATION, RESIDING AT CHATTA HOUSE,
PALLIKUNNU AMSOM DESOM, P.O.PALLIKUNNU,
KANNUR TALUK AND DISTRICT.

16. SUMITH, S/O. CHATTA DAYAROTH
PADMANABHAN, NO OCCUPATION, RESIDING AT
CHATTA HOUSE, PALLIKUNNU AMSOM DESOM,
P.O.PALLIKUNNU, KANNUR TALUK AND DISTRICT.

17. C.V.SUJAY, S/O. PADMANABHAN,
AGED 21 YEARS, STUDENT, RESIDING AT
CHATTA HOUSE, PALLIKUNNU VILLAGE,
KANNUR TALUK AND DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

W.P.C. NO. 19603 OF 2007

= = = = = = = = = = = = = = =

Dated this the 26th day of June, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside the order passed by the Subordinate Judge, Thalassery in E.A.505/07 in E.P.276/01 in O.S.170/96. The writ petitioner had three tiers of litigation, i.e., trial stage, appellate stage and second appellate stage and had lost the case in all the Courts and the second appeal filed before this Court has been dismissed holding that there is no substantial question of law involved in the case.

2. The learned counsel had relied on the decision reported in **Mathew Titus v. Thankamma Titus (1999 (3) KLT 538)** where this Court was considering the matter under Order 21 Rule 26 C.P.C. Facts of the said case would reveal that it was a case where the first appeal was preferred with a petition to condone the delay and the condonation application was pending and therefore the Court taking into consideration the entire circumstances granted interim stay

for a period of two months. Now, this is a case where three courts have held against the present writ petitioner and he intends to prefer a special leave petition before the Apex Court after reopening of the Supreme Court. There is a vacation sitting before the Supreme Court as well. Further, three courts have applied their minds and disposed of the case and this Court should not put a winning party into a loosing position and if ultimately the present petitioner succeeds C.P.C. provides S.144 for restitution of the property. Therefore, no relief can be granted in this writ petition and it is dismissed.

M.N. KRISHNAN, JUDGE.

ul/-